

Resolution Agreement
Texas State University-San Marcos
OCR Complaint No. 06-18-2019

The U.S. Department of Education (Department), Office for Civil Rights (OCR) and Texas State University-San Marcos (TSU-SM) enter into this Agreement to resolve the allegations in the above-referenced complaint. This Agreement was entered into during the course of OCR's investigation prior to OCR reaching a determination. This agreement was entered into during the course of OCR's investigation prior to OCR's reaching a determination. Neither this Agreement nor its contents shall be construed as an admission, by TSU-SM, of: i) liability; ii) wrongdoing; or iii) non-compliance with the laws and regulations enforced by OCR. TSU-SM assures OCR that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 20 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities receiving Federal financial assistance; Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131, *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities; and Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100 (Title VI), which prohibit discrimination on the basis of race, color or national origin in programs and activities receiving Federal financial assistance.

Accordingly, to resolve the issues of OCR's investigation, TSU-SM agrees to take the following actions:

Action Item Number One:

By January 31, 2019, TSU-SM agrees to conduct training regarding the requirements of Section 504 Title II and Title VI, as it relates the prohibition of discrimination and harassment on the basis of race, color, national origin and disability. The training will be conducted by a person or persons knowledgeable about the requirements of Section 504, Title II and Title VI regarding the prohibition of discrimination and harassment against students who are enrolled at TSU-SM. The mandatory training participants will include, at a minimum, TSU-SM Office of Disability Services (ODS) officials and staff, the TSU-SM Office of Student Diversity and Inclusion (SDI) staff, designated TSU-SM police department staff representatives who interact with students in the course and scope of their regular job duties, and any other staff and faculty deemed appropriate by TSU-SM.

Reporting Requirement:

By March 15, 2019, in accordance with Action Item Number One, TSU-SM will provide to OCR the name, title and contact information of the person or persons conducting the training referenced in Action Item Number One. TSU-SM will also provide a description (i.e. curriculum vitae) of the qualifications of the person or persons delivering the training to TSU-SM officials. The report will also include copies of the complete training materials, the date or dates and location or locations the training was conducted, the complete training agenda or syllabus, and sign-in sheets identifying each TSU-SM staff and/or faculty member who participated in all training sessions conducted.

Action Item Number Two:

By January 31, 2019, TSU-SM agrees to conduct training regarding the requirements of Section 504 and Title II, as it relates the provision of academic adjustments and auxiliary aids to students. The training will be conducted by a person or persons knowledgeable about the requirements of Section 504 and Title II, regarding the provision of academic adjustments and auxiliary aids to qualified students with disabilities who are enrolled at TSU-SM. The mandatory training participants will include, at a minimum, TSU-SM Office of Disability Services (ODS) officials and staff and designated TSU-SM police department staff representatives who interact with students in the course and scope of their regular job duties, and other staff and faculty deemed appropriate by TSU-SM.

Reporting Requirement:

By March 15, 2019, TSU-SM will provide to OCR the name, title and contact information of the person or persons conducting the training referenced in Action Item Number Two. TSU-SM will also provide a description (i.e. curriculum vitae) of the qualifications of the person or persons delivering the training to TSU-SM officials. The report will also include copies of the complete training materials, the date or dates and location or locations the training was conducted, the complete training agenda or syllabus, and sign-in sheets identifying each TSU-SM staff and/or faculty member who participated in all training sessions conducted.

Action Item Number Three:

TSU-SM agrees to extend a written invitation to meet with the complainant by no later than September 30, 2018. The meeting will be conducted by officials of TSU-SM's ODS, and other TSU-SM designated officials and staff, to determine the specific academic adjustments and auxiliary aids to be provided to the complainant during the Fall 2018 academic term. As part of the deliberative and collaborative process between the complainant and TSU-SM designated officials, TSU-SM will consider alternative forms of communication with the complainant that the complainant deems effective (e.g., captioning services for the complainant) should such be requested by complainant.

Commented [MCC1]: Texas State University would request that the ADA Coordinator not be a required attendee to this meeting as this staff member does not directly participate in providing academic accommodations meetings with students, as such is customarily handled by the staff in the ODS.

Reporting Requirement:

By October 31, 2018, TSU-SM will provide OCR with a report related to Action Item Number Three, outlining the meeting conducted with the complainant and a copy of any academic adjustments and/or auxiliary aids determined appropriate for the complainant, for the Fall 2018 academic term. The report will include, but will not be limited to, written notes of the discussion with the complainant, a listing of all academic adjustments or auxiliary aids to be provided to the complainant, copies of letters to be provided to the complainant's instructors or other faculty, and all other information resulting from the meeting with the complainant.

Action Item Number Four:

By October 1, 2018, and throughout the 2018 Fall semester, TSU-SM will provide the complainant with reasonable, in-person access by appointment to the ODS and the SDI office, provided such in-person appointments are made in accordance with respective ODS and SDI office procedures. TSU-SM agrees to provide such office procedures for making in-person appointments to

complainant in writing by the date stated above. TSU-SM will also document in writing (i.e., a sign-in sheet denoting the date and time) each in-person visit from the complainant to the ODS and the SDI office. TSU-SM will also communicate in writing to complainant that it is the expectation of TSU-SM that complainant comply with all university policies and procedures, including the TSU-SM Student Code of Conduct while he is enrolled as student at TSU-SM.

Reporting Requirement:

By October 31, 2018, TSU-SM will provide OCR with documentation in relation to Action Item Number Four, that complainant has been provided with written notice of office procedures for making in-person appointments with ODS and SDI. TSU-SM will also provide OCR with documentation of the number of visits to each office by the complainant. TSU-SM will provide OCR with documentation that complainant has been provided with written notice of expected compliance with university policies and procedures, including the TSU-SM Student Code of Conduct while he is enrolled as a student at TSU-SM.

Commented [MCC2]: This section has been moved to Action Item #5 which addresses the 1st/2nd points of contact for complainant in ODS.

Action Item Number Five:

By October 1, 2018, TSU-SM will designate a primary and secondary employee as points of contact at the ODS for if/when the complainant has questions, concerns or requires assistance regarding the provision of academic adjustments and auxiliary aids while complainant is enrolled as a student at TSU-SM. TSU-SM will provide the complainant with the name, title and contact information for the designated ODS staff in writing by the date indicated above. TSU-SM will also communicate in writing to complainant that the complainant will be limited to no more than one (1) phone call per university class day to ODS, of a duration of no more than fifteen (15) minutes.

Reporting Requirement:

By October 31, 2018, TSU-SM will provide documentation related to Action Item Number Five, to identify the primary and secondary employees designated as points of contact for the complainant. The documentation will include the name(s), titles(s) and contact information for designated employees in the ODSS and the ODI offices, and the method of providing information to the complainant.

Action Item Number Six:

By January 31, 2019, TSU-SM agrees to conduct training regarding the prohibition of retaliation, including harassment as a form of retaliation, against individuals on the bases of disability. The training will be conducted by a person or persons knowledgeable about the requirements of Section 504 and Title II. At a minimum, the training will include officials and staff from the ODS, designated staff representatives of the TSU-SM police department who interact with students in the course and scope of their regular job duties, and other officials, staff and faculty deemed appropriate by TSU-SM.

Reporting Requirement:

By March 15, 2019, TSU-SM will provide to OCR the name, title and contact information of the person or persons conducting the training referenced in Action Item Number Six, regarding the

provision of training regarding retaliation. TSU-SM will also provide a description (i.e. curriculum vitae) of the qualifications of the person or persons delivering the training to TSU-SM officials. The report will also include copies of the complete training materials, the date or dates and location or locations the training was conducted, the complete training agenda or syllabus, and sign-in sheets identifying each TSU-SM staff and/or faculty member who participated in all training sessions conducted.

Action Item Number Seven:

By October 1, 2018, a TSU-SM representative will notify, by registered, return-receipt requested letter, Texas state law enforcement agencies (including but not limited to the City of San Marcos Police Department, the Hays County Sheriff's Department, and the Texas Department of Public Safety), informing each law enforcement agency that TSU-SM does not currently have any pending criminal charges and/or open investigations, including charges of harassing TSU-SM employees or other violations of a criminal statute, against the complainant. A copy of each letter issued by TSU-SM will be provided to the complainant, via return receipt registration, within 5 calendar days of issuance.

Reporting Requirements:

By October 31, 2018, in accordance with Action Item Number Seven, TSU-SM will provide OCR copies of each letter issued to law enforcement agencies regarding the complainant, as well as evidence that the correspondence was mailed with return receipt registration. TSU-SM will also provide OCR with evidence that each letter was provided, via return receipt registration.

Action Item Number Eight:

By October 1, 2018, TSU-SM will provide, by registered, return-receipt requested, a letter of assurance to the complainant stating that TSU-SM does not currently have any pending criminal charges and/or open investigations, including charges of harassment or other violation(s) of a criminal statute, against the complainant, either internally or by the TSU-SM police department. TSU-SM will further inform the complainant that he is welcome on the TSU-SM campus as an enrolled student. The letter will also provide the name, title and contact information of the TSU-SM designated law enforcement official or other TSU-SM official for the complainant to contact if he requires clarification or has questions regarding his law enforcement status.

Reporting Requirements:

By October 31, 2018, TSU will provide OCR, in conformance with Action Item Number Eight, a copy of the letter issued to the complainant evidencing that TSU-SM is not currently seeking criminal charges against the complainant by the TSU-SM police department. TSU-SM will also provide OCR with a copy of the return-receipt registration.

Commented [MCC3]: Same comment as above.

General Principals for Monitoring

TSU-SM understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the TSU-SM understands that during the monitoring of the Agreement, if necessary, OCR may visit TSU-SM, interview staff and students, and request such additional reports or data as are necessary for OCR to

determine whether TSU-SM has fulfilled the terms of the Agreement. Upon TSU-SM's satisfactory completion of the Action Items made under the Agreement, OCR will close this case.

TSU-SM understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including those to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce the Agreement, OCR shall give the TSU-SM written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the President or designee.

XX XXXX XXXX
President
Texas State University-San Marcos

Date